

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

780H0152

SENATE BILL NO. 12

Introduced by: The Committee on Local Government at the request of the Secretary of State

1 FOR AN ACT ENTITLED, An Act to provide for the method for marking and counting ballots
2 and to clarify the procedure for auditing ballots.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 12-18-16 be amended to read as follows:

5 12-18-16. ~~The~~ If a paper ballot is used, the voter shall ~~may~~ use a pencil or pen to mark ~~his~~
6 the voter's ballot ~~and no stamp or other instrument than a pencil or pen shall be used for such~~
7 ~~purpose and he shall~~ and the voter may mark ~~his~~ the ballot with either a cross (x) or check mark
8 (?).

9 Section 2. That chapter 12-18 be amended by adding thereto a NEW SECTION to read as
10 follows:

11 If an optical scan ballot is used, the voter may use a pencil or other marking instrument
12 provided to mark the voter's choice on the ballot.

13 Section 3. That chapter 12-18 be amended by adding thereto a NEW SECTION to read as
14 follows:

15 If a punch card ballot is used, the voter may use the stylus provided to dislodge the chad



1 indicating the voter's choice.

2 Section 4. That § 12-18-21.1 be repealed.

3 ~~12-18-21.1. If a name is written on a ballot in an attempt to cast a write-in vote, the vote cast~~
4 ~~for that particular office may not be counted. However, any vote cast for any other office may~~
5 ~~be counted.~~

6 Section 5. That chapter 12-20 be amended by adding thereto a NEW SECTION to read as
7 follows:

8 If a name is written on a ballot in an attempt to cast a write-in vote, the write-in vote may
9 not be counted. However, all other votes for which the voter's intent may be determined shall
10 be counted.

11 Section 6. That § 12-20-7 be amended to read as follows:

12 12-20-7. Any ballot or part of a ballot from which it is impossible to determine the voter's
13 choice shall be void and ~~shall~~ may not be counted. ~~When~~ If the voter's marks complying with
14 § 12-18-16 on a ballot are sufficiently plain to gather therefrom a part of determine the voter's
15 intention and there are no marks placed on the ballot contrary to § 12-18-22 it shall be it is the
16 duty of the judges of election precinct deputies to count such part vote. The State Board of
17 Elections shall promulgate rules, pursuant to chapter 1-26, defining standards for determining
18 voter intent.

19 Section 7. That § 12-20-1 be amended to read as follows:

20 12-20-1. As soon as the polls are closed, the precinct superintendent and precinct deputies
21 shall audit the ballot count as prescribed in §§ 12-20-2 and 12-20-3. The precinct superintendent
22 and precinct deputies shall then immediately deliver the ballot boxes, registration book, pollbook,
23 and other election supplies, including voided and unused ballots, to the counting board, if
24 appointed, and sign a certificate of transmittal and receipt as prescribed by the State Board of

1 Elections. The members of the precinct election board or the counting board, if appointed, shall
2 then immediately proceed to count publicly, in the presence of all persons desiring to attend the
3 count, the votes received at the polls, and continue without adjournment until the count is
4 completed. In counting the votes, the members of the precinct election board or counting board
5 shall use the tally sheets provided.